

Message Text

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TO AMEMBASSY PARIS IMMEDIATE

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E.O. 11652: GDS

TAGS: ENRG, MNUC, TECH

SUBJECT: NUCLEAR EXPORTS TO INDIA

1. EMBASSY MAY PROVIDE FOLLOWING TO JACOMET IN REGARD TO
US POLICY ON NUCLEAR EXPORTS TO INDIA AND THE GLENN AMEND-
MENT.

2. INDIA. UNDER THE 1963 US-INDIA AGREEMENT FOR COOPERA-
TION, THE US UNDERTOOK AN OBLIGATION TO SELL INDIA THROUGH
1993 ALL THE LOW-ENRICHED URANIUM NEEDED FOR THE TARAPUR
POWER STATION PROVIDED THAT CERTAIN SAFEGUARDS AND CON-
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TROLS WERE MAINTAINED. THE RECENTLY ENACTED US NUCLEAR
NON-PROLIFERATION ACT REQUIRES THAT WITHIN 18-24 MONTHS OF
ENACTMENT OF THE LAW, A NON-NUCLEAR WEAPONS STATE THAT CO-
OPERATES WITH THE US IN THE NUCLEAR FIELD MUST HAVE ALL
ITS PEACEFUL NUCLEAR ACTIVITIES UNDER INTERNATIONAL SAFE-
GUARDS FOR CONTINUED US COOPERATION.

3. ON APRIL 3, THE NUCLEAR REGULATORY COMMISSION DIVIDED TWO-TWO ON THE EXECUTIVE BRANCH'S RECOMMENDATION THAT THE NRC ISSUE A LICENSE FOR THE EXPORT OF 7.6 TONS OF LOW-ENRICHED URANIUM UNDER THIS AGREEMENT. WHILE THE EXECUTIVE BRANCH AND TWO COMMISSIONERS CONCLUDED THAT THE PROPOSED EXPORT MET APPLICABLE EXPORT CRITERIA, COMMISSIONERS

GILINSKY AND BRADFORD CONCLUDED THAT THEY WERE UNABLE TO FIND THAT SAFEGUARDS, REPROCESSING APPROVAL RIGHTS, AND OTHER US CONTROLS ON THIS MATERIAL WOULD CONTINUE TO BE MAINTAINED AFTER 1980 IF INDIA DID NOT ACCEPT IAEA SAFEGUARDS ON ALL ITS ACTIVITIES AND THE US WERE COMPELLED TO CEASE FURTHER COOPERATION.

4. THE PRESIDENT, EMPHASIZING THAT THE LAW CLEARLY INTENDED THAT THE 18-24 MONTH PERIOD BE USED FOR NEGOTIATIONS TO ACHIEVE AGREEMENT ON FULL-SCOPE SAFEGUARDS, ISSUED AN EXECUTIVE ORDER AUTHORIZING THE EXPORT. BY LAW, THIS ORDER MUST LIE BEFORE CONGRESS FOR 60 DAYS AND CAN BE OVERTURNED ONLY IF BOTH HOUSES VOTE TO DISAPPROVE THE EXPORT.

5. IN TESTIMONY BEFORE CONGRESS ON THIS CASE, THE EXECUTIVE BRANCH ARGUED AMONG OTHER THINGS, THAT (1) WE COULD HOPE TO ACHIEVE OUR NON-PROLIFERATION GOALS WITH INDIA ONLY BY CONTINUING NUCLEAR SUPPLY DURING THE NEGOTIATING
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PERIOD ESTABLISHED BY THE LAW, AND (2) WHILE IT WAS BY NO MEANS CERTAIN THAT INDIA WOULD AGREE TO FULL-SCOPE SAFEGUARDS WITHIN THE DESIGNATED PERIOD, A REASONABLE POSSIBILITY DOES EXIST IN VIEW OF PRIME MINISTER DESAI'S POLICY FORESWEARING FURTHER NUCLEAR EXPLOSIONS. FURTHER, THE DESAI GOVERNMENT HAS NOT REJECTED FULL-SCOPE SAFEGUARDS, BUT RATHER HAS LINKED INDIAN MOVEMENT ON SAFEGUARDS TO PROGRESS BY THE NUCLEAR WEAPON STATES ON ARMS CONTROL AND DISARMAMENT. THE HOUSE INTERNATIONAL RELATIONS COMMITTEE VOTED ON JUNE 14 NOT TO OPPOSE THE CURRENT EXPORT. THIS ACTION ENSURES THAT THE EXPORT WILL OCCUR AT THE END OF THE 60 DAY PERIOD, I.E., EARLY JULY.

6. AFTER THE 18-24 MONTH PERIOD DESCRIBED ABOVE, US NUCLEAR SUPPLY WOULD CEASE UNLESS THE PRESIDENT WERE TO WAIVE THE APPLICATION OF THE FULL-SCOPE SAFEGUARDS PROVISION AND APPROVE A NUCLEAR EXPORT TO INDIA. SUCH A WAIVER WOULD BE SUBJECT TO CONGRESSIONAL REVIEW. IT HAS BEEN MADE CLEAR TO BOTH CONGRESS AND THE INDIAN GOVERNMENT, AT THE HIGHEST LEVEL, THAT IT IS HIGHLY UNLIKELY THAT THE PRESIDENT WILL EXERCISE SUCH A WAIVER. MOREOVER, THERE HAVE BEEN EXPRESSIONS FROM CONGRESSIONAL

QUARTERS THAT THERE SHOULD BE NO SUCH WAIVER FOR INDIA IF FULL-SCOPE SAFEGUARDS ARE NOT ACHIEVED.

7. IN SUM, WE BELIEVE THAT APPROVAL OF THE CURRENT EXPORT LICENSE FOR INDIA IS CONSISTENT WITH THE INTENT OF US LAW AND WITH THE PRACTICAL REQUIREMENTS OF ACHIEVING OUR NON-PROLIFERATION OBJECTIVES. AS THE PRESIDENT HAS STATED, TERMINATION OF COOPERATION AT THIS TIME BY

REJECTING THIS LICENSE APPLICATION WOULD HAVE RULED OUT ANY POSSIBILITY OF ACHIEVING OUR GOAL OF FULL-SCOPE SAFEGUARDS. CONTINUATION OF COOPERATION DURING THE INTERIM PERIOD SHOULD KEEP OPEN THE POSSIBILITY OF NEGOTIATING THIS OBJECTIVE WHILE ALSO ALLOWING FOR AN ORDERLY DISEN-
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GAGEMENT OF US-INDIAN NUCLEAR COOPERATION AND THE PRESERVATION OF EXISTING CONSTRAINTS ON US MATERIAL IN THE EVENT OUR NEGOTIATIONS ARE NOT SUCCESSFUL.

8. WE WERE ENCOURAGED BY THE TONE AND SUBSTANCE OF OUR DIALOGUE WITH THE GOI DURING THE DESAI VISIT. WE ARE CONVINCED THE PRIME MINISTER IS GENUINELY CONCERNED ABOUT THE DANGERS OF BOTH HORIZONTAL AND VERTICAL PROLIFERATION AND WISHES TO SEE PROGRESS ON BOTH. WE HOPE THAT IF THE NUCLEAR WEAPONS STATES CAN DEMONSTRATE PROGRESS ON CONTROLLING VERTICAL PROLIFERATION THROUGH A CTB AND SOME PROGRESS ON SALT AGREEMENTS, PRIME MINISTER DESAI WILL HAVE AN APPROPRIATE POLITICAL FRAMEWORK IN WHICH TO PLACE ALL OF INDIA'S NUCLEAR ACTIVITIES UNDER INTERNATIONAL SAFEGUARDS. WE ARE CURRENTLY WORKING WITH THE INDIAN GOVERNMENT ON WAYS TO ASSURE IT THAT APPLICATION OF SAFEGUARDS TO ITS RESEARCH DEVELOPMENT PROGRAM WILL NOT INHIBIT INDIA'S NUCLEAR DEVELOPMENT FOR PEACEFUL PURPOSES.

9. GLENN AMENDMENT AND FRENCH CANCELLATION OF ITS REPROCESSING CONTRACT WITH PAKISTAN. WE WOULD BE ABLE TO RESUME ECONOMIC AND MILITARY ASSISTANCE TO PAKISTAN EVEN IF THERE WERE NO PUBLIC ANNOUNCEMENT IN FRANCE OR PAKISTAN OF THE CANCELLATION OR INDEFINITE DEFERRAL AS LONG AS THE GOF INFORMED US PRIVATELY THAT NO TRANSFERS HAD TAKEN PLACE AFTER THE EFFECTIVE DATE OF THE GLENN AMENDMENT (AUGUST 4, 1977). HOWEVER, IF THERE WERE NO PUBLIC ANNOUNCEMENT, US RESUMPTION OF ASSISTANCE TO PAKISTAN WOULD IMMEDIATELY RESULT IN QUESTIONS IN CONGRESS ABOUT THE STATUS OF THE REPROCESSING DEAL SO IT WOULD BE NECESSARY FOR THE ADMINISTRATION TO BRIEF KEY MEMBERS OF THE CONGRESS ON A CONFIDENTIAL BASIS PRIOR TO RESUMPTION OF ASSISTANCE. THERE IS A GOOD PROBABILITY THAT SOME OF THIS
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INFORMATION WOULD THEN BECOME PUBLIC.

THE GLENN AMENDMENT DOES NOT SPECIFICALLY ADDRESS THE ISSUE OF INDIGENOUS PRODUCTION OF REPROCESSING PLANTS. HOWEVER, IN THE EVENT THAT PAKISTAN, AFTER CANCELLATION OF THE FRENCH CONTRACT, ATTEMPTED TO COMPLETE THE PLANT ON ITS OWN, THIS ACTION WOULD CERTAINLY BE CONTRARY TO THE SPIRIT OF THE LAW AND POLITICALLY CONTROVERSIAL IN THE US. IT IS HIGHLY UNLIKELY IN SUCH CIRCUMSTANCES THAT WE WOULD BE ABLE TO RESUME THE ASSISTANCE PROGRAMS THAT HAVE BEEN INTERRUPTED BY THE REPROCESSING ISSUE, AND OVER THE LONGER

TERM THIS ISSUE WOULD HAVE A DETRIMENTAL EFFECT ON OUR RELATIONSHIP WITH PAKISTAN. VANCE

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